ANTITRUST . . . CRIME . . . DRUGS . . . BUSING

Interview With Attorney General Kleindienst

What are the major problems in law enforcement? Are business mergers a cause for worry? How would Nixon proposals curb school busing?

Official answers to such questions are given by the nation's chief legal officer, who came to the conference room of "U. S. News & World Report" for this exclusive interview.

Q Mr. Attorney General, what do you see as the main task—the No. 1 priority—of the Justice Department at this time?

A For the next several years, our priorities would be as follows, and not ranked in any particular order: a continuation of a vigorous enforcement of antitrust laws, civil-rights laws and laws against organized crime and narcotics, and a continuation of our support to State and local agencies in their fight against street crime. Prison reform also should be included.

If we can maintain through the next Nixon Administration the momentum that we've established in the last 3½ years, then I think many of the problems that seemed almost insoluble four years ago will be reduced to what I like to refer to as just normal irritants in any free society.

Q In the field of civil rights, what is your main problem now? Schools? Jobs? Voting rights? Housing?

A Let me start out with a general statement:

This Administration has felt that racism and discrimination exist in all parts of our country. We have not, for short-run political expediency, singled out any particular section of the country with respect to enforcing civil rights. Our efforts have been on a nationwide basis, and I think that lends validity to the enforcement and acceptance of the enforcement of these laws.

Our main emphasis, in relative terms, has been on two areas: the so-called *de jure* segregation in schools in the South, and on discrimination in employment.

One of the facts that I don't think we have been able to get across to the public—or some parts of the news media have been unwilling to report—has been the almost miraculous achievement of the Nixon Administration with respect to the school-segregation problem in our Southern States.

When we came into office in 1969—15 years after the Supreme Court's ruling against school segregation—we found that, in spite of all the breast-beating and the rhetoric, only about 5 per cent of Southern school districts had desegregated to become what the courts call a unitary school system.

Two and a half years after President Nixon was elected, almost 90 per cent of the school districts in the South had been converted to a unitary system. I think that argues very well for the techniques and the manner in which President Nixon approached this task, as compared with the manner in which the two preceding Administrations approached it.

Q How did the Nixon Administration do it?

A What President Nixon did that was different was that he persuaded citizens of the South—black and white—to come together, acknowledge the obligation imposed by law and work it out, without making it an inflammatory local or parochial political matter.

I think the mistake that had been made in the past, particularly in the 1960s, was that in order to get some temporary political advantage in Northern cities, the preceding Administrations had an overemphasis on sending outsiders into the South to do this.

But, regardless of the techniques, the fact is that President Nixon has created a situation where now, in most Southern cities and communities, there is more integration, more mixing of black and white youngsters in the public schools, than you would find in such Northern cities as Detroit, Philadelphia, Cleveland, Chicago and New York.

This leads us to one of the predicates for the President's proposed school legislation. Having substantially eliminated *de jure* segregation in the South, we now find ourselves at the point where we should have a national standard to

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"We find ourselves at the point where we should have a national standard to achieve quality education for all children, and the elimination of discriminatory practices everywhere."

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"We have opened doors in the building trades [and] we have broken down attitudes" among companies "laggard" in promoting blacks in white-collar jobs.

Richard G. Kleindienst was born in Winslow, Ariz., educated at Harvard. While practicing law in Phoenix, he served in the Arizona legislature, ran unsuccessfully for Governor. He came to Washington in 1969 as Deputy Attorney General. His promotion to Attorney General was confirmed June 8 after a record-long and controversial hearing by a Senate committee. He is 49 years old.

"The President's proposal says that, consistent with the Supreme Court's latest ruling, busing may be used where necessary as a last resort—but only as the last arrow in your bow," Mr. Kleindienst notes. "It also says that you do not bus very young children long distances into a strange environment."

achieve two things: quality education for all children, and the elimination of racial or discriminatory practices everywhere.

That was the basis of the President's proposal to the Congress last March. I hope that when this election is over and Congress gets itself back to the serious business of national issues, it will take up what the President has offered and come out—for the first time—with a national standard for the education of our children.

Q What is the Justice Department doing about discrimination in employment?

A To me, any form of racial discrimination is wrong, and I hesitate to put one form of discrimination above any other. But in terms of giving our minority groups the wherewithal to participate fully in our society, I think certainly one of the most important places to start is employment.

There are many practices of many labor unions—practices that were legal when they grew up, just as segregated schools were once legal in the South—which as a result of job-protection clauses and seniority systems now operate either to exclude minority people or make it very difficult for them to enter the unions.

One of the most dramatic situations we had in 1969 was in the motion-picture industry on the West Coast. They have many very highly specialized guilds in that profession and, because of the economic changes in that industry as a result of television, many of those guilds found themselves not seeking new members. Through long, hard negotiations, we were able to obtain very substantial changes that opened up that field to minority groups.

Through the so-called Philadelphia Plan that was enunciated by this Administration, and through the many suits that we have filed on an industry-wide basis, we have opened doors in the building-construction trades.

We've also gone into white-collar employment where large companies, though hiring blacks in some lower-level managerial positions, were laggard in promoting them. Through the filing of carefully selected court cases, we have broken down those attitudes.

Q Are you getting a growing number of complaints about discrimination against women?

A Yes, we are.

Q Is this likely to become a serious problem?

A I don't think it's going to be a too severe problem. I think the American woman is really rather privileged, be-

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"Federal money is going back to the States to give them the police, the courts, the judges and the prosecutors to bring law enforcement up to date," Mr. Kleindienst observes.

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cause in an enlightened society she has more choices available to her than the male does. She can decide whether to be a housewife and mother, a part-time housewife and part-time careerist, or devote herself entirely to a professional career.

But, of course, we do not have as much equality of opportunity for women as there should be. Many women complain that they are paid less than men for doing equivalent tasks, that they are not treated equally in advancement, or that they are not hired in the first place.

Q What is the situation in housing? Are complaints of discrimination still rising?

A Until we have eliminated racism from our society, I think we're going to have continual pressure with respect to violations of the law in this area. But, at least from the standpoint of national policy, we've turned the corner, and I think that the gains each year hereafter are going to be on a progressive scale.

Q Can you explain why some groups of civil-rights lawyers have resigned from the Justice Department, complaining that its enforcement of the laws is not vigorous enough?

A We've only had one group who actually resigned—and the next day they announced their support of Senator George McGovern's candidacy for President. So I interpret their action as political.

Previously, in 1969, we had a rather awkward situation in Mississippi involving a school-desegregation case. We had one lawyer resign then and one that we had to discharge. But other than these cases, in some 3½ years of normal turnover of lawyers, I would say we've had fewer resign from the Civil Rights Division than in the previous Administration.

Q Why do you think so many black leaders are critical of the Nixon Administration's civil-rights record?

A I think there's a very simple explanation. Black leaders in this country are predominantly Democratic, and they realize that if just a rather modest percentage of black persons started voting Republican, they would probably not win a national election. So I think that for just rather short-range political reasons they have not been fair about recognizing our efforts in this area.

I might add that this is not good for the civil-rights movement in this country. I think it has operated, in some respects, to detract from the desire of many people to end racial discrimination in America.

Q How large is the Civil Rights Division of your Department, and how does it compare with those in previous Administrations?

A We have about 140 lawyers in the Civil Rights Division now, and when the former Attorney General, John Mitchell, and I came into the Department, there were only about 100. We have requested authorization for 198 for the next fiscal year.

Q In the civil-rights field, right now the big dispute seems to be about busing pupils for school integration. Congress has passed some measures intended to curb busing. What effect do you think those measures will have?

A Congress has not yet addressed itself to the real busing problem, quite frankly. They passed a so-called moratorium, but they avoided the real issue. They have left it up to federal district judges—some 400 of them all over the United States—to legislate on an individual, case-by-case basis.

So you have a federal district judge in Detroit coming up with one solution; another judge in Richmond, Va., with another solution; in Nashville, another, and in Denver, yet another.

I think that has been one of the reasons why the busing problem has become so inflammatory.

What we really need is a national policy. The comprehensive legislation that the President offered last March after many months of diligent study is the only responsible approach to this problem.

Q What would the President's proposals do that the congressional measures do not?

A President Nixon's approach takes into account these three things:

No. 1, as a result of our effective enforcement, we now have substantially eliminated the dual school system in the South, so that the South is either equal to or ahead of the North in desegregation. Therefore, we can now treat the problem on a national basis.

No. 2 is the desire to provide quality education for all our children.

No. 3 is to have a uniform standard with respect to what you do to eliminate racial segregation.

"AIM IS TO UPLIFT POOR SCHOOLS"—

Q How would the Nixon measures curb busing?

A The President's proposal says that, consistent with the Supreme Court's latest ruling, busing may be used where necessary as a last resort—but only as the last arrow in your bow.

It also says—as the Supreme Court suggested—that you do not bus very young children long distances and into a strange environment.

The aim is to uplift poor schools with monetary support to provide equality of education for all.

Then there is the President's moratorium bill which says there will be no more busing orders—no new busing—until next July 1, until Congress has time to pass substantive legislation to lay down new rules.

Q Congress has passed a moratorium on busing—

A But the language of the congressional moratorium is really so vague that no one can determine with certainty its applicability. In the Detroit case, for instance, there is a very serious situation where a federal judge, in effect, wiped out long-established city, county and school-district boundaries to compel busing of pupils between city and suburban districts. That also was the effect of the ruling in Richmond. This raises a real question as to whether a federal judge has the constitutional power to change the basic political-subdivision lines.

Q Would the President's measures bar such orders as those in Richmond and Detroit?

A Yes. The decisions in the Detroit and Richmond cases would not be consistent with the President's legislation.

Q Would you favor a constitutional amendment to limit busing, as some people have proposed?

A Well, you might eventually have to get to that point. But I believe the President—and I know that I as a citizen—would much prefer to have it done by thoughtful, responsible legislation enacted by the representatives of the people in Congress.

Q Turning to the subject of crime: Are you making any real progress in curbing crime?

A I think we have made dramatic progress. To begin with, I think there has been a change in concept and attitude with respect to crime, under this Administration.

By way of preface, let me say this:

I believe that crime derives from several general causes. No. 1 is the natural imperfection of the human being. As long as you have imperfect human beings, you're going to have crime.

Crime also derives from ignorance, poverty, lack of training and bad environment. That's why in this Administration we applaud and support those long-range programs of our Federal Government—some 67 billion dollars' worth of them last year—which, over a long period of time, are calculated to uplift and improve our general society; eliminate poverty, ignorance and racism.

In the meantime, however, we—unlike some of our predecessors—feel that there has to be enforcement of the law. So we in the Department of Justice have concerned ourselves with the specific of enforcing the law. The evidence of how well we've done that is rather compelling.

One example is Washington, D. C., the nation's capital. When this Administration took over in January, 1969, this city was fast getting the reputation as being the crime center of America. And this is a federal city, under control of the Federal Government.

President Nixon quickly presented to Congress a program calculated to improve the whole system of criminal justice in Washington. Today, it has the fastest decreasing crime rate of any major metropolitan area in the U. S.

Q What caused this change in Washington's crime rate?

A It came about much the same way that it is coming about in some other areas.

When this Administration began, Washington had 13 federal judges who could try felony cases. They tried 2,000 felonies in 1952 and they tried 2,000 felony cases in 1968—and yet the number of felonies reported had mushroomed to 16,000. Today, there are 55 federal judges in the District of Columbia who can try felonies.

When we got here, the police force numbered about 2,900 officers—only 10 or 15 per cent of whom were black in a city that is more than 70 per cent black. Today, Washington has 5,200 police officers, and about 35 or 40 per cent of them are black. It has the best program of police-community relations in the country. We have more than doubled the number of prosecutors and of defense attorneys.

So what we have done here in 3½ years is to bring the whole system of criminal justice in the District of Columbia up to date.

Q How about crime in other cities?

A Through the efforts of the Law Enforcement Assistance Administration, the same thing—on a much slower basis—is going to occur all over the United States. Witness the figures that were recently reported for the first quarter of this year, in which the increase in crime nationwide was only 1 per cent. In the first quarter of the year before, the increase was 6 per cent, and it was 13 per cent in the year before that.

An important factor has been the hundreds of millions of dollars that the Nixon Administration has provided State and local agencies through the Law Enforcement Assistance Administration.

This is a revenue-sharing project which enables States and cities to do essentially what the District of Columbia has done. When we got here, the LEAA appropriation was about 63 million dollars. Our first year it was bumped up to 268 million, the next year to 529 million, last year to 699 million—and next year it will be about 850 million dollars.

This federal money is going back to the States on a block-grant basis to give them the police, the courts, the judges, the penitentiaries and the prosecutors to bring law enforcement up to date.

And I would like to say this about block grants:

There was great debate in Congress in 1968 over whether these LEAA monies should be administered as usual by some bureaucrat in Washington, or whether they should be administered by the States through their own planning agencies, with just general supervision from Washington.

I think the manner in which Congress decided that question—and which has been supported by the President—is the best approach, because what Mississippi needs to curb crime might be different from what is needed in New York. I believe the revenue-sharing concept of President Nixon is best illustrated by the block-grant program of LEAA.

Q There have been charges that some of these LEAA funds have been misspent. Are you looking into those charges?

A We have been aware of them and have taken the initiative with respect to correcting any misuses. With so much money and so many people involved, it should be no surprise that some misspending has occurred. But the amount of misspending has been very small, and in each case where it has been found, the Department of Justice has gone in with investigative and corrective measures.

CRACKDOWN ON LEADERS IN CRIME—

Q How is the Justice Department doing with its fight against organized crime?

A I'm glad you asked that question. There isn't a politician, Democrat or Republican, who wouldn't willingly say, "I'm against organized crime." The question is, what do you do about it?

In 1968, Congress debated whether to pass a law giving the Justice Department the right to institute electronic surveillances of organized-crime figures under the supervision and control of a federal judge.

The Attorney General at the time, Ramsey Clark, said if Congress passed that law he would not enforce it. Congress passed the law, and he wouldn't enforce it.

John Mitchell, when he became Attorney General, said he would enforce that law. And in the last 3½ years we have done so. We've instituted some 600 electronic surveillances against organized-crime figures, pursuant to a court order and under court supervision.

The results have been about 2,400 arrests and about 1,600 indictments of organized-crime figures—including what we regard as at least one half of the so-called leadership of the crime organizations.

We have built up our strike forces against organized crime from seven to nearly 20. We have effective co-operation now between all branches of the Government. And the President created the National Council on Organized Crime to plan the strategy to eliminate this menace.

I predict that if President Nixon is given another four years in office, the scourge of organized crime will be reduced to manageable proportions.

Q There was a recent court ruling against wiretapping—

A One U. S. district judge held the congressional act authorizing wiretapping to be unconstitutional.

Q Are you still using wiretaps?

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—USN&WR Photo

"This Administration has been more vigorous in enforcement of antitrust laws than the Democrats," says Mr. Kleindienst.

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A Yes, and that ruling is being appealed. I would not expect it to be upheld, particularly in view of the Supreme Court's latest ruling on wiretapping. The Court ruled we could not wiretap without a court order in investigations involving purely domestic subversion. But for even domestic organizations that have a substantial link with foreign governments, the President still has the power to institute wiretaps without a court warrant.

Q Before the Supreme Court ruling, how many wiretaps were you using in domestic-security cases?

A When that Supreme Court decision came down, I think we had to discontinue six surveillances which I felt were barred under that decision. All told, including those six, I think we had a total of only 29 security-case surveillances in operation at that time.

We have gone as high as 50 or 55 wiretaps in security cases at a particular period of time. But that is substantially less than the number under previous Administrations. I think the greatest number was under the Kennedy Administration, when there were more than 100 in operation.

Q Are you able to use wiretap evidence in court in criminal cases?

A Sure, if you make a proper application and a judge issues an order and you do the wiretapping for the period specified by the judge. The virtue of the law is that it provides evidence you couldn't get otherwise.

Q How important is the wiretap weapon to a prosecutor?

A It's indispensable against organized crime. In such cases, witnesses lie under oath or they are intimidated not to testify, or sometimes they are killed. So wiretapping can get us the evidence we need to convict these syndicate members.

Q L. Patrick Gray, the acting Director of the Federal Bureau of Investigation, said recently that he favors the licensing and registration of all privately held firearms. Do you agree with him?

A No, I do not.

Q Why not?

A In the first place, you can't apply such a rule uniformly in a complex society like ours. To apply that rule to a farmer or a rancher or a sportsman, let's say, out West on the same basis that you would in New York City, just doesn't argue for an understanding of the kind of country we live in.

Secondly, I think enforcement of such a law would be practically impossible. New York for many years has had a law against possessing firearms without a permit. Yet it is estimated there are some 700,000 illegally possessed firearms in New York City.

The end result, I think, would be that your honest, law-abiding citizen would register his gun, but the criminal type —with access to millions of guns—would not. If you take New York City as an example, I don't think a mere law requiring registration of firearms would cause any appreciable diminution in deaths caused by guns.

Q You mentioned penal reform as one major task for your Department. What is wrong with our penal system, and how serious is the problem?

A I think the social problem emanating from the prisons in this country is one of the most serious we have.

When you look at the fact that 75 per cent of those persons who are convicted of felonies are rearrested within four years of their release from prison, then—whether you look at it from a humanitarian standpoint or as a matter of just strictly dollars and cents—you've got to say to yourself that we are doing something wrong in our penitentiaries.

Instead of sending offenders to institutions of rehabilitation, so that when they come out they have a better chance of being a useful part of society, what you're really doing is sending them to places that almost guarantee they will be worse when they come out than they were when they went in.

Q Are federal prisons as bad as State prisons?

A No. The federal penitentiary system is a model, comparatively. But it still has a long, long way to go.

There is no rational justification, in my opinion, for putting 2,000 men or women in big fortresses like our prisons at Atlanta, Ga.; Leavenworth, Kans., or Lewisburg, Pa., that do not carefully dichotomize the inmates according to their age, background, education and the severity of their crimes, and then divide them into groups with programs calculated to reconstruct and rehabilitate human beings.

The President, long before the revolt at the Attica, N. Y., prison, presented to Congress the country's first long-range, comprehensive program for reforming penitentiaries. Congress has provided the wherewithal to do a part of this program, but has not really addressed itself to the problem. And this is going to be one of the great challenges for the next four or five years. This is a matter I've had an interest in for many years.

Q Recently, we've had a rash of uprisings in which prisoners demand that Governors or other public officials come to negotiate with them while they are holding hostages at the point of a gun—

A I don't approve of that kind of thing. I don't believe you can solve the penal problem by being intimidated by inmates to do things not consistent with good prison management. That is not the answer.

Q Should a Governor refuse to bargain with prisoners under such conditions?

A It all depends on what the prisoners' demands are. If there are legitimate grievances, I think a Governor or a State legislature has a duty to look into them and make proper corrections. But there is no duty on any public official to acquiesce to unreasonable demands of prisoners—many of whom have become politicized in the last several years.

CURBS ON DRUGS: "DRAMATIC"—

Q Is the use of narcotics a serious and growing problem for your department?

A It's a serious problem—but it's not growing. I think it would have grown had it not been for President Nixon's aggressive programs. The success of those programs has been dramatic. It's an across-the-board effort—internally, externally, in medicine, education, research, enforcement, customs controls and foreign relations.

I believe that with the continuation of these programs, four or five years from now the drug problem can be reduced to an ordinary irritant.

Q Moving into the antitrust field, what is the policy now

in dealing with big companies that are merging, first into one line of business and then into another—the so-called conglomerates?

A The Johnson Administration took the view that Congress should enact a new law to deal with that type of merger and, therefore, did nothing to stop conglomerates.

We felt that existing statutes, combined with the rulings that have been handed down by the Supreme Court, gave the Government the power it needed.

I signed the complaints against the International Telephone & Telegraph Company when it acquired the Hartford Fire Insurance Company, Canteen Corporation of America and Grinnell [Grinnell Company, Inc.]. We filed many other complaints against large conglomerates.

Our approach is this:

We feel that it is a violation of the law if the acquisition of a company by one of these conglomerates will interfere with competition from other companies that have been competing with the acquired firm, whether that results from reciprocal buying arrangements that can be used by the conglomerate, or just from the nature of the industry involved.

Q Does that policy still stand?

A It certainly does.

Q Why did you take that position?

A It was estimated, when President Nixon was elected, that if the wave of mergers continued, within six or seven years about 80 per cent of the productive capacity of this country was going to be in the hands of about 100 corporations. And that doesn't argue well for a relatively dynamic, free, competititive economic society.

I don't think it would be fair to say that the approach we instituted was the sole reason why conglomerate acquisitions have subsided. But I would say it was one of the important reasons.

Q Have the courts sustained you in your approach?

A We have not had a Supreme Court ruling, because we've been able to get the companies to accept consent decrees and settlements of that kind. However, some cases still are in the process of litigation.

Q Are you worried about the fact that mergers seem once again to be increasing?

A We have no objection to mergers per se. What we say is: If you are going to merge or acquire another company, we want to look at the merging companies in terms of their relative positions in the market and what that market would be like after the acquisition. If it's a highly diversified field, the merging and acquiring companies together might not have a pre-eminent position, and we will let them go ahead.

But if, as in the ITT-Hartford Fire case, you are acquiring the world's largest fire insurance underwriter and, at the same time, you're taking over one of the largest manufacturers of fire-safety equipment, if you own the Sheraton hotel chain and the Avis car-rental system—if all these businesses are large and have a strong position in their markets, that's an entirely different matter. Then we look at the probable economic impact, and we have guidelines that we apply.

Q Are these the same guidelines that were laid down by the Johnson Administration which, in effect, barred any large company from taking over another firm in the same line of business or of any supplier or customer?

A Our guidelines are more strict.

Q How so?

A I mean that they are being enforced, and I think there's a lot of difference in that respect. This Administration has been more vigorous—and that is generally true of Republican Administrations—in the enforcement of the antitrust laws than the Democrats.

Q Have you filed more antitrust complaints?

A We have filed more complaints than any of the past five Administrations. You have to go back to 1942 to find a greater number of antitrust suits brought during a year's time.

Q You brought up the ITT case. Why did you decide not to press for a Supreme Court decision on that case?

A We had appealed in the ITT-Grinnell merger case and were contemplating possible appeal in the other ITT cases, involving acquisitions of Hartford and Canteen, in the event we were to lose those cases in the lower courts.

On the one hand, we had very adverse findings by the federal district court in the Grinnell case, which also adversely affected the Hartford case.

Ultimate success on the facts of those two cases was thus seriously in doubt.

On the other hand, we were advised that there were significant problems in terms of the effects on the shareholders and possibly on the economy of a Hartford divestiture.

Judge Richard McLaren, who formerly headed the Antitrust Division, recommended to me, and I approved, a settlement which would eliminate all the anticompetitive effects we saw in those cases and, at the same time, avoid the problem of a possible loss in the Supreme Court.

This settlement, amounting to a divestiture involving a billion dollars in annual sales, as well as a bar on significant future acquisitions by ITT, is the largest divestiture in modern history. As such, it serves as a stern warning to those who believe that a conglomerate can operate outside the antitrust laws.

PROBLEMS OF U. S. FIRMS ABROAD—

Q Do American companies need more leeway under the antitrust laws in their operations overseas?

A I think that is a legitimate area of study and inquiry.

Q Why do you think that?

A An American company is subject to our antitrust laws on its activities here in the United States. When that company goes abroad to do business, its activities overseas are still subject to the U. S. laws, but its foreign competitors are covered by different laws which tend to be less restrictive. They may be able to work in cartels, to carve up the market, and our companies can't enter into arrangements of that kind.

You also have to consider that our companies already are at a disadvantage because of higher labor costs.

It seems to me that we've got to look at the problem carefully to see whether we can't make it possible for them to be more competitive and less inhibited.

Q Can't you just say that a company is O.K. if it obeys the U. S. law while operating in this country, and obeys the foreign antitrust laws when operating abroad?

A It isn't that simple, but that is the essence of the problem.

Q Mr. Kleindienst, there have been reports in recent weeks that some militant groups of young voters are planning multiple voting on a wide scale in the November elections—with each young person voting in several different precincts or communities. One method reported is for a college student to vote in the town where he attends college and also cast an absentee ballot in his home town. Is there any way the Justice Department can prevent this?

A If such plans were carried out on a very wide scale, there wouldn't be adequate facilities or resources in the Federal Government to deal with it. But if any voter violates the law, he can be prosecuted. And if there is substantial abuse, we will certainly pursue it.

Q How large is the Justice Department?

A We have about 47,000 employes in 17 divisions.

Q How many of these are lawyers?

A I would say about 3,000. We're the biggest law firm in the world.